

**ASSEMBLY BILL**

**No. 427**

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**Introduced by Assembly Member Hancock**

February 16, 2007

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An act to amend Section 731 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 427, as introduced, Hancock. Transportation: state highway nuisances.

Existing law provides that the Department of Transportation has full possession and control of all state highways. Existing law provides that any vehicle or structure parked or placed wholly or partly within any state highway, for the purpose of selling anything therefrom, is a public nuisance that may be immediately removed by the department. Existing law provides that the person responsible for these nuisances is guilty of a misdemeanor. Existing law establishes various exemptions from these provisions.

This bill would provide that these provisions do not prohibit the placement of tables and chairs on state-owned sidewalks for the purpose of selling and serving food and drinks.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 731 of the Streets and Highways Code  
2     is amended to read:

1     731. Any vehicle or structure parked or placed wholly or partly  
2 within any state highway, for the purpose of selling the same or  
3 of selling therefrom or therein any article, service or thing, is a  
4 public nuisance and the department may immediately remove that  
5 vehicle or structure from within any highway.

6     Any person parking any vehicle or placing any structure wholly  
7 or partly within any highway for the purpose of selling that vehicle  
8 or structure, or of selling therefrom or therein, any article or thing,  
9 and any person selling, displaying for sale, or offering for sale any  
10 article or thing either in or from that vehicle or structure so parked  
11 or placed, and any person storing, servicing, repairing or otherwise  
12 working upon any vehicle, other than upon a vehicle which is  
13 temporarily disabled, is guilty of a misdemeanor.

14     The California Highway Patrol and all peace officers may enforce  
15 the provisions of this chapter and shall cooperate with the  
16 department to that end. Whenever any member of the California  
17 Highway Patrol or any peace officer removes a vehicle from a  
18 highway under the provisions of this section, then all of the  
19 provisions of Article 3 (commencing with Section 22850), Chapter  
20 10, Division 11 of the Vehicle Code with reference to the removal  
21 of a vehicle from a highway shall be applicable.

22     This section does not prohibit a seller from taking orders or  
23 delivering any commodity from a vehicle on that part of any state  
24 highway immediately adjacent to the premises of the purchaser;  
25 prohibit an owner or operator of a vehicle, or a mechanic, from  
26 servicing, repairing or otherwise working upon any vehicle which  
27 is temporarily disabled in a manner and to an extent that it is  
28 impossible to avoid stopping that vehicle within the highway; ~~or~~  
29 prohibit coin-operated public telephones and related telephone  
30 structures in park and ride lots, vista points, and truck inspection  
31 facilities within state highway rights-of-way for use by the general  
32 public; *or prohibit the placement of tables and chairs on*  
33 *state-owned sidewalks for the purpose of selling and serving food*  
34 *and drinks.*